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Superior Court of California
County of Los Angeles

JAN 08 2019

Sherri R. Carter, Executive Officer/Clerk
By: Stephanie Chung, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, EX
REL. BARBARA A. LEE, DIRECTOR, OF THE
CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

Plaintiff,

v.

PHIBRO-TECH, INC.

Defendant.

Case No. BC-655177

~~PROPOSED~~ FINAL JUDGMENT
ON CONSENT AND PERMANENT
INJUNCTION

(Code of Civ. Proc., § 664.6)

Dept.: 1
Judge: Honorable Daniel J. Buckley
Trial Date: None set
Action Filed: March 24, 2017

Plaintiff, the People of the State of California, ex rel., Barbara A. Lee, Director, California Department of Toxic Substances Control ("DTSC") and Defendant Phi bro-Tech, Inc. ("Phibro-Tech"), collectively the "Parties," having consented to the entry of this Final Judgment on Consent and Permanent Injunction ("Final Judgment") prior to the taking of any proof and without a trial or adjudication of any fact or law herein, and the Court having considered the First Amended Complaint for Civil Penalties and Injunctive Relief ("First Amended Complaint"), the Stipulation for Entry of Order of Final Judgment on Consent and Permanent Injunction (the "Stipulation"), and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. JURISDICTION AND VENUE

The Parties stipulate and agree that the Superior Court of California, County of Los Angeles, has subject matter jurisdiction over the matters alleged in the First Amended Complaint and personal jurisdiction over the Parties to this Final Judgment. The Parties also stipulate that venue in this Court is proper under Health and Safety Code sections 25181 and 25183.

2. DEFINITIONS

Except where otherwise expressly defined in this Final Judgment, all terms shall be interpreted as set forth in, and consistent with, the California Hazardous Waste Control Law ("HWCL") (Health & Saf. Code, § 25100 et seq.) and its implementing regulations, California Code of Regulations, title 22, division 4.5, section 66260.1, et seq. ("Title 22"). The following terms used in this Final Judgment shall have the meaning(s) set forth below:

2.1 "EFFECTIVE DATE" is the date the Final Judgment in this matter is entered by the Court.

2.2 "FACILITY" refers to the HAZARDOUS WASTE TREATMENT and STORAGE FACILITY located at 8851 Dice Road, Santa Fe Springs, California 90670. The FACILITY is a "HAZARDOUS WASTE FACILITY" as defined in Health and Safety Code section 25117.1.

2.3 "HAZARDOUS WASTE" shall have the definition as provided for in Health and Safety Code section 25117 and the same meaning as the term is used in Title 22, section 66261.3 and sections 66261.20 through 66261.24.

2.4 "HAZARDOUS WASTE MANAGEMENT," "MANAGE," and "MANAGEMENT" shall have the definition as set forth in Health and Safety Code section 25117.2.

2.5 "INCOMPATIBLE WASTE" as defined in Title 22, section 66260.10 means a HAZARDOUS WASTE that is unsuitable for: (a) placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or (b) comingling with another WASTE or material under uncontrolled conditions because the comingling might produce (1) heat or pressure, (2) fire or explosion, (3) violent reaction, (4) toxic dusts, mists, fumes, or gases, or (5) flammable fumes or gases. Appendix V of

Chapter 14, Article 19 of Title 22 provides examples of potentially INCOMPATIBLE WASTES, WASTE components, and materials.

2.6 "PERMIT" refers to the Hazardous Waste Facility Permit No. 91-3-TS-002 dated July 29, 1991.

2.7 "STORAGE," "STORE," "STORED," and "STORING" means the holding of HAZARDOUS WASTE for a temporary period, at the end of which the HAZARDOUS WASTE is TREATED, disposed of or STORED elsewhere as set forth in Title 22, section 66260.10.

2.8 "TREATMENT," "TREAT," and "TREATING" means any method, technique, or process that changes or is designed to change the physical, chemical, or biological character or composition of any HAZARDOUS WASTE or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose including, but not limited to, energy recovery, material recovery or reduction in volume as set forth in Title 22, section 66260.10.

2.9 "WASTE" and "WASTES" shall have the definition as set forth in Health and Safety Code section 25124 and in Title 22, section 66261.2.

3. WAIVER OF HEARING AND TRIAL AND ENTRY OF JUDGMENT

Pursuant to the Parties' Stipulation, Phibro-Tech waives its right to a hearing and a trial on the matters alleged in the First Amended Complaint and waives its right to appeal.

4. APPLICATION OF THIS FINAL JUDGMENT

This Final Judgment shall apply to: (1) DTSC and any successor agency and (2) Phibro-Tech, and its officers, directors, managers, employees, agents, contractors, representatives, and any successors and assigns in their official capacity.

5. COVERED MATTERS

5.1 Except as otherwise provided in this Final Judgment, this Final Judgment is a final and binding resolution and settlement of the violations specifically alleged by DTSC against Phibro-Tech in the First Amended Complaint. The matters described in the previous sentence are "Covered Matters." Any claim, violation, or cause of action that is not a Covered Matter is a "Reserved Claim." DTSC reserves its authority to pursue Reserved Claims as set forth in

Paragraph 10 below.

5.2 Nothing in this Final Judgment shall limit the rights of DTSC against Phibro-Tech under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the California Hazardous Substance Account Act (Health & Saf. Code, § 25300 et seq.), Health and Safety Code section 25187, subdivision (b), concerning a release of HAZARDOUS WASTE or a HAZARDOUS constituent into the environment, or for violations of the HWCL, Title 22, or the PERMIT not included under Covered Matters in Paragraph 5.1.

5.3 DTSC further reserves all rights to enforce the injunctive terms of the Final Judgment.

6. GENERAL INJUNCTIVE PROVISIONS

Phibro-Tech shall be, and is, permanently enjoined as follows:

6.1 Pursuant to the provisions of Health and Safety Code sections 25181 and 25184, Phibro-Tech shall comply with the HWCL and Title 22 at, and in connection with the operations of, the FACILITY. In addition, Phibro-Tech shall comply with the PERMIT and the Final Judgment.

6.2 DTSC may enforce this Final Judgment, including any injunctive relief, as stated in Paragraph 10, below, by any means authorized under law, including, but not limited to, suspension or revocation of the PERMIT or seeking contempt of court.

7. SPECIFIC INJUNCTIVE PROVISIONS

7.1 Tank Closure Requirements. Phibro-Tech shall comply with all tank closure requirements as required by Title 22, sections 66264.113, subdivision (b), 66264.115, 66270.30, subdivision (a), and the PERMIT, Sections III.S(2)((b) and III.S(4).

7.2. STORAGE of HAZARDOUS WASTE at the FACILITY.

a. STORAGE of HAZARDOUS WASTE in Tank S-3. Phibro-Tech shall cease STORING HAZARDOUS WASTE in Tank S-3 in Area S of the FACILITY. Phibro-Tech shall STORE HAZARDS WASTE at the FACILITY in compliance with Health and Safety Code section 25202, subdivision (a), and Title 22, section 66270.30, subdivision (a), and the PERMIT.

b. STORAGE OF HAZARDOUS WASTE in Tank S-7. Phibro-Tech shall cease

1 STORING HAZARDOUS WASTE in Tank S-7 in Area S of the FACILITY. Phibro-Tech shall
2 STORE HAZARDOUS WASTE at the FACILITY, in compliance with Health and Safety Code
3 section 25202, subdivision (a), and Title 22, section 66270.30, subdivision (a), and the PERMIT.

4 7.3 STORAGE of HAZARDOUS WASTE Outside Permitted STORAGE Areas. Phibro-
5 Tech shall cease STORING HAZARDOUS WASTE generated onsite at unauthorized locations at
6 the FACILITY. Phibro-Tech shall STORE HAZARDOUS WASTE generated onsite at the
7 FACILITY in compliance with Health and Safety Code section 25202, subdivision (a), Title 22,
8 sections 66270.30, subdivision (a), 66270.34, subdivisions (a) and (f), and the PERMIT,
9 Section III.C.

10 a. STORAGE of HAZARDOUS WASTE Outside Permitted STORAGE Area ERS-1.
11 Phibro-Tech shall cease STORING HAZARDOUS WASTE generated onsite outside the
12 permitted STORAGE area ERS-1 of the FACILITY. Phibro-Tech shall STORE HAZARDOUS
13 WASTE generated onsite at the FACILITY in compliance with Health and Safety Code section
14 25202, subdivision (a), Title 22, sections 66270.30, subdivision (a), and 66262.34, subdivisions
15 (a) and (f), and the PERMIT, Section III.C

16 b. STORAGE of HAZARDOUS WASTE Outside Permitted STORAGE Area ERS-2.
17 Phibro-Tech shall cease STORING HAZARDOUS WASTE generated onsite outside the
18 permitted STORAGE area ERS-2 of the FACILITY. Phibro-Tech shall STORE HAZARDOUS
19 WASTE generated onsite at the FACILITY in compliance with Health and Safety Code section
20 25202, subdivision (a), Title 22, sections 66270.30, subdivision (a), and 66262.34, subdivisions
21 (a) and (f), and the PERMIT, Section III.C.

22 c. STORAGE of HAZARDOUS WASTE in Area North of the Laboratory. Phibro-
23 Tech shall cease STORING HAZARDOUS WASTE generated onsite north of the FACILITY's
24 laboratory. Phibro-Tech shall STORE HAZARDOUS WASTE generated onsite at the
25 FACILITY in compliance with Health and Safety Code section 25202, subdivision (a), Title 22,
26 sections 66270.30, subdivision (a), and section 66262.34, subdivisions (a) and (f), and the
27 PERMIT, Section III.C.

28 d. STORAGE of HAZARDOUS WASTE in the Cabinet Underneath the Laboratory

1 Sink. Phibro-Tech shall cease STORING HAZARDOUS WASTE generated onsite in the cabinet
2 located on the first floor of the FACILITY's laboratory underneath the eastern laboratory sink.

3 Phibro-Tech shall STORE HAZARDOUS WASTE generated onsite at the FACILITY in
4 compliance with Health and Safety Code section 25202, subdivision (a), Title 22, sections
5 66270.30, subdivision (a), and 66262.34, subdivisions (a) and (f), and the PERMIT, Section III.C.

6 7.4 HAZARDOUS WASTE MANAGEMENT Activities. Phibro-Tech shall cease
7 conducting unauthorized HAZARDOUS WASTE MANAGEMENT activities. Phibro-Tech shall
8 conduct HAZARDOUS WASTE MANAGEMENT activities at the FACILITY in compliance
9 with Health and Safety Code section 25202, subdivision (a), Title 22, section 66270.30,
10 subdivision (a), and the PERMIT.

11 a. Phibro-Tech shall cease STORING and TREATING cyanide HAZARDOUS
12 WASTE without satisfying the conditions set forth in its PERMIT, Section 1A and Section II.
13 Phibro-Tech shall STORE and TREAT cyanide HAZARDOUS WASTE at the FACILITY in
14 compliance with Health and Safety Code sections 25202, subdivision (a), and 25201,
15 subdivision (a).

16 b. Phibro-Tech shall cease TREATING cyanide HAZARDOUS WASTE in Tank J-2 of
17 the FACILITY. Phibro-Tech shall TREAT cyanide HAZARDOUS WASTE at the FACILITY in
18 compliance with Health and Safety Code sections 25202, subdivision (a), and 25201,
19 subdivision (a).

20 7.5 TREATMENT of HAZARDOUS WASTE. Phibro-Tech shall cease conducting
21 illegal TREATMENT of HAZARDOUS WASTE at the FACILITY. Phibro-Tech shall conduct
22 TREATMENT of HAZARDOUS WASTE at the FACILITY in compliance with Health and
23 Safety Code sections 25202, subdivision (a), and 25201, subdivision (a).

24 a. TREATMENT of HAZARDOUS WASTE in the Dry Basin. Phibro-Tech shall cease
25 TREATING HAZARDOUS WASTE sludge in the dry basin located in Area F of the FACILITY
26 without a permit or authorization from DTSC. Phibro-Tech shall TREAT HAZARDOUS
27 WASTE sludge at the FACILITY in compliance with Health and Safety Code sections 25202,
28 subdivision (a), and 25201, subdivision (a).

1 b. Consolidating HAZARDOUS WASTE filter cakes. Phibro-Tech shall cease
2 consolidating HAZARDOUS WASTE filter cakes from super sacs into roll-off bins at the
3 FACILITY. Phibro-Tech shall consolidate HAZARDOUS WASTE at the FACILITY in
4 compliance with Health and Safety Code 25202, subdivision (a).

5 7.6 Illegal Transfer or Offloading of HAZARDOUS WASTE. Phibro-Tech shall cease
6 illegal transfer or offloading HAZARDOUS WASTE at the FACILITY. Phibro-Tech shall
7 transfer or offload HAZARDOUS WASTE at the FACILITY in compliance with Health and
8 Safety Code section 25202, subdivision (a), Health and Safety Code section 25200.19,
9 subdivisions (b) and (c), and the PERMIT.

10 a. Transferring or Offloading of HAZARDOUS WASTE from Tanker Trucks into
11 Totes. Phibro-Tech shall cease transferring or offloading incoming HAZARDOUS WASTE from
12 tanker trucks into totes outside the authorized STORAGE area of the FACILITY, ERS-1, without
13 a permit or authorization from DTSC. Phibro-Tech shall transfer or offload incoming
14 HAZARDOUS WASTE at the FACILITY in compliance with Health and Safety Code
15 section 25202, subdivision (a), Health and Safety Code section 25200.19, subdivisions (b) and
16 (c), and the PERMIT.

17 b. Transferring or Offloading of HAZARDOUS WASTE Without a Containment
18 Device or System. Phibro-Tech shall cease transferring or offloading incoming HAZARDOUS
19 WASTE liquids from tanker trucks into totes without using a containment device or other system
20 capable of collecting and containing leaks and spills. Phibro-Tech shall transfer or offload
21 incoming HAZARDOUS WASTE at the FACILITY in compliance with Health and Safety Code
22 section 25202, subdivision (a), Health and Safety Code section 25200.19, subdivisions (b) and
23 (c), and the PERMIT.

24 7.7 Tank Assessments. Every three years, Phibro-Tech shall conduct a complete
25 HAZARDOUS WASTE Tank assessment, in which a civil engineer registered in California,
26 certifies that each FACILITY HAZARDOUS WASTE tank is structurally sound and of adequate
27 construction for the intended use, as required by Health and Safety Code section 25202,
28 subdivision (a), Title 22, section 66270.30, subdivision (a), and the PERMIT,

1 Section III.C3.(a)(2).

2 7.8 Aisle Space. Phibro-Tech shall maintain aisle space adequate to allow the
3 unobstructed movement of personnel, fire protection equipment, spill control equipment, and
4 decontamination equipment as required by Title 22, section 66264.35. Phibro-Tech shall ensure
5 that the labels on each HAZARDOUS WASTE container are facing the walkway of the aisle and
6 are easily visible for inspection by DTSC and Phibro-Tech employees walking down the aisles.

7 7.9 Recording of Location and Quantity of HAZARDOUS WASTE within the
8 FACILITY. Phibro-Tech shall maintain a written operating record of a description and the
9 quantity of each HAZARDOUS WASTE received, the location of each HAZARDOUS WASTE
10 within the FACILITY, and the quantity of HAZARDOUS WASTE at each location within the
11 FACILITY, as required by Title 22, section 66264.73, subdivisions (b)(1) and (b)(2).

12 7.10 Use and MANAGEMENT of HAZARDOUS WASTE Containers. Phibro-Tech shall
13 use and MANAGE HAZARDOUS WASTE containers as required by Health and Safety Code
14 section 25202, subdivision (a), Title 22, sections 66264.171 through 66264.179.

15 a. Closing HAZARDOUS WASTE Containers. Phibro-Tech shall close containers
16 holding HAZARDOUS WASTE during transfer and STORAGE, except when it is necessary to
17 add or remove WASTE as required by Title 22, section 66264.173, subdivision (a). A container
18 holding HAZARDOUS WASTE shall not be opened, handled, transferred or STORED in a
19 manner which may rupture the container or cause it to leak as required by, Title 22, section
20 66264.173, subdivision (b), and the PERMIT.

21 b. Separation of INCOMPATIBLE HAZARDOUS WASTE. Phibro-Tech shall
22 separate a container holding a HAZARDOUS WASTE that is INCOMPATIBLE with any
23 WASTE or other materials transferred or STORED nearby in other containers by means of a dike,
24 berm, wall, or other device as required by Health and Safety Code section 25202, subdivision (a),
25 Title 22, section 66264.177, subdivision (c), and the PERMIT, Part III, Section F3.

26 7.11 Maintaining Accurate FACILITY Records. Phibro-Tech shall not make false
27 representations in its Operating Record, Inspection Reports and other documents filed, maintained
28 and used for purposes of compliance with the HWCL. Phibro-Tech shall make representations in

1 its Operating Record, Inspection Reports, and other documents filed, maintained and used for
2 purposes of compliance with the HWCL, in compliance with Health and Safety Code Section
3 25189.2, subdivision (a).

4 a. Records of STORAGE of HAZARDOUS WASTE. Phibro-Tech shall not make a
5 false representation about the location of STORAGE of HAZARDOUS WASTE within each area
6 of the FACILITY. Phibro-Tech shall record STORAGE of HAZARDOUS WASTE within each
7 area of the FACILITY in compliance with Health and Safety Code Section 25189.2,
8 subdivision (a).

9 b. Tracking HAZARDOUS WASTE. Phibro-Tech shall not make a false representation
10 about the tracking of HAZARDOUS WASTE containers within the FACILITY, including, but
11 not limited to, when the HAZARDOUS WASTE container is removed from STORAGE, when it
12 is processed, and when it is destroyed. Phibro-Tech shall track HAZARDOUS WASTE
13 containers at the FACILITY in compliance with Health and Safety Code section 25189.2,
14 subdivision (a).

15 7.12 Conducting HAZARDOUS WASTE MANAGEMENT Activities. Phibro-Tech shall
16 conduct HAZARDOUS WASTE MANAGEMENT activities at the FACILITY in compliance
17 with Health and Safety Code section 25202, subdivision (a), Title 22, section 66270.30, and the
18 PERMIT.

19 a. The Laboratory Pump. Phibro-Tech shall not use the Laboratory Pump located at the
20 FACILITY for the MANAGEMENT of HAZARDOUS WASTE.

21 b. The Main Pan. Phibro-Tech shall not use the Main Pan located at the FACILITY,
22 also known as the "main transfer pump," to receive HAZARDOUS WASTE directly from
23 unloading trucks.

24 c. The Portable Filter Press. Phibro-Tech shall not use the portable filter press at the
25 FACILITY to TREAT HAZARDOUS WASTE.

26 d. Tank C-40. Phibro-Tech shall use and operate HAZARDOUS WASTE Tank C-40,
27 located at the FACILITY, in accordance with the temporary authorization approved by DTSC on
28 April 6, 2018. This temporary authorization is valid until April 1, 2019, unless Phibro-Tech

1 receives DTSC approval, on or before April 1, 2019, for the Class 2 Permit Modification
2 submitted by Phibro-Tech on June 29, 2018, seeking to modify the PERMIT to include Tank C-
3 40 as a RCRA HAZARDOUS WASTE MANAGEMENT unit. Phibro-Tech shall not use Tank
4 C-40 without DTSC's authorization.

5 Phibro-Tech has provided DTSC with documentation that it has stopped using the
6 Laboratory Pump, the Main Pan, and the Portable Filter Press (collectively, "the unauthorized
7 equipment") to conduct HAZARDOUS WASTE MANAGEMENT activities at the FACILITY.
8 Based on the documentation provided, DTSC concurs that because Phibro-Tech no longer uses
9 any of the unauthorized equipment, it is not currently in violation of the applicable hazardous
10 waste laws and their implementing regulations with respect to the unauthorized equipment
11 discussed in this Final Judgment. However, DTSC reserves the right to re-evaluate this issue
12 should new information become available.

13 7.13 Minimizing Releases. Phibro-Tech shall maintain and operate the FACILITY to
14 minimize the possibility of a fire, explosion, or unplanned sudden or non-sudden release of
15 HAZARDOUS WASTE or HAZARDOUS WASTE constituents to air, soil, or surface water,
16 including, but not limited to: minimizing the release of HAZARDOUS WASTE at or outside the
17 FACILITY, and removing liquids and spills from secondary containment and spilled
18 HAZARDOUS WASTE at the FACILITY, as required by Health and Safety Code section 25202,
19 subdivision (a), Title 22, section 66264.30, and the Permit, Section III.G.(6)(a).

20 7.14 Maintaining and Repairing Cracks. Phibro-Tech shall maintain concrete floors and
21 secondary containment structures at the FACILITY to be free of cracks or gaps and that such
22 floors and containment structures are sufficiently impervious to contain leaks, spills, and
23 accumulated precipitation until the collected material is detected and removed as required by
24 Title 22, section 66264.175, subdivision (b)(1).

25 7.15 HAZARDOUS WASTE Determination. Phibro-Tech shall make a HAZARDOUS
26 WASTE determination for all WASTE generated at the FACILITY, as required by Title 22,
27 sections 66262.11, subdivision (a), and 66260.200.

28 7.16 Manifesting HAZARDOUS WASTE. Phibro-Tech shall ship all HAZARDOUS

WASTE, including RCRA listed HAZARDOUS WASTE copper filter cake, under a manifest, as required by Health and Safety Code section 25160 and Title 22, section 66262.20.

7.17 Groundwater Monitoring Wells. Phibro-Tech shall maintain the integrity of the FACILITY groundwater monitoring wells as follows:

a. Phibro-Tech shall maintain the integrity of the FACILITY groundwater monitoring wells to prevent the wells from acting as a conduit for contaminant transport, as required by Title 22, section 66264.97, subdivision (b)(4).

b. Phibro-Tech shall maintain the integrity of the FACILITY groundwater monitoring wells to prevent entry of contaminants from the surface to the unsaturated zone and/or groundwater aquifers beneath the FACILITY and to prevent contamination of samples, as required by Title 22, section 66264.97, subdivision (b)(6).

8.1 SETTLEMENT PAYMENT

a. Phibro-Tech shall pay DTSC a total of \$495,000 in civil penalties within thirty (30) calendar days of the EFFECTIVE DATE, however, fifty (50) percent, or \$247,500, of the civil penalties may be paid in the form of a Supplemental Environmental Project (SEP) as outlined below.

b. Phibro-Tech shall pay \$247,500 to the Los Nietos Unified School District (District) for the express purpose of funding a SEP to purchase equipment for laboratory classroom(s).

c. The Parties agree that Phibro-Tech may submit a complete SEP proposal for the SEP set forth in Paragraph 10.1.b within fourteen (14) calendar days of entry of this Final Judgment. A complete SEP proposal must include a letter from the District that includes:

(1) the account/fund in which the SEP funds are to be deposited and used to purchase equipment for laboratory classroom(s);

(2) the District's contact person(s) responsible for overseeing implementation of the SEP, as approved by DTSC;

(3) the details of how the SEP funds will be used (including a list of laboratory equipment or categories of laboratory equipment to be purchased);

(4) the date by which the District will purchase the laboratory equipment or other

1 schedule for expenditure of SEP funds, with said date being no later than four (4)
2 years from the entry of this Final Judgment; a plan for notifications to DTSC when
3 laboratory equipment is purchased with SEP funds; and
4 (5) submission of a completion report pursuant to DTSC's May 2016 SEP Policy that
5 itemizes all laboratory equipment purchased by the District with SEP funds, including
6 invoices supporting each purchase.

7 Within 10 calendar days of submission of a complete SEP proposal to DTSC, DTSC shall
8 approve or deny, in its sole discretion, Phibro-Tech's SEP proposal. If Phibro-Tech does not
9 submit a complete SEP proposal within fourteen (14) calendar days of entry of this Final
10 Judgment, or if DTSC denies Phibro-Tech's SEP proposal, the \$247,500 shall revert to civil
11 penalties and will be due and owing to DTSC within thirty (30) calendar days of DTSC's written
12 notice to Phibro-Tech. Additionally, if the \$247,500, or any unused portion thereof, is not used
13 for the SEP within four years from the entry of this Final Judgment, it shall revert to civil
14 penalties and will be due and owing to DTSC within thirty (30) calendar days of DTSC's written
15 notice to Phibro-Tech.

16 c. Payments to DTSC shall be made by cashier's check, payable to the "Department of
17 Toxic Substances Control" and bearing the notation "Phibro-Tech, Inc. and Case No. BC-
18 655177" and mailed to:

19 **Cashier**
20 **Accounting Office, MS-21A**
21 **Department of Toxic Substances Control**
22 **P.O. Box 806**
23 **Sacramento, California 95812-0806**

24 d. An electronic (e.g., Adobe PDF) copy or paper photocopy of any payment to DTSC
25 shall be sent, at the same time, to those persons identified in Paragraph 11.

26 **8.2 LATE PAYMENT**

27 Phibro-Tech shall pay a late payment of \$10,000 per day for each day the payment is late.
28 In addition, Phibro-Tech shall pay DTSC post-judgment interest as provided in Code of Civil
Procedure section 685.010 (10 percent) from the date of default.

1 **9. NOTICES**

2 9.1 All notices under this Final Judgment shall be in writing and shall be sent to:

3 Keith Kihara
4 Division Chief
5 Department of Toxic Substances Control
6 Enforcement and Emergency Response Division
7 8800 Cal Center Drive
8 Sacramento, California 95826-3200
9 Email: Keith.Kihara@dtsc.ca.gov

10 Debra Schwartz
11 Senior Attorney
12 Office of Legal Counsel
13 Department of Toxic Substances Control
14 9211 Oakdale Avenue
15 Chatsworth, California 91311
16 Email: Debra.Schwartz@dtsc.ca.gov

17 Olivia W. Karlin
18 Deputy Attorney General
19 Office of the Attorney General
20 300 South Spring Street
21 Los Angeles, California 90013
22 Email: Olivia.Karlin@doj.ca.gov

23 9.2 Each Party may change its respective representative(s) for purposes of notice by
24 providing the name and address of the new representative, in writing, to those persons identified
25 in Paragraph 9.1. All notices or other communications required or permitted under the Final
26 Judgment that are addressed as provided in this Paragraph are effective upon delivery if delivered
27 personally or by overnight mail, or, if delivered by certified mail, are effective five (5) calendar
28 days following deposit with the United States mail, postage prepaid, if delivered by mail, or are
29 effective the next court day that electronic mail is sent before 5 p.m. (PST) to the electronic mail
30 addresses of the designated recipient for notice concurrent with sending the notice by United
31 States mail.

32 9.3 All notices, approvals, and decisions of DTSC under the terms of this Final Judgment
33 shall be communicated to Phibro-Tech in writing. No oral advice, guidance, suggestions, or
34 comments by employees or officials of DTSC or people or entities acting on behalf of Phibro-
35 Tech, regarding matters covered in this Final Judgment, shall be construed to relieve Phibro-Tech
36 of its obligations under this Final Judgment.

1 9.4 Nothing in this Final Judgment shall be interpreted or applied to relieve Phibro-Tech
2 of its existing obligations to provide copies of documentation to a local agency or Certified
3 Unified Program Agency (CUPA) as required by statute, regulation, or requirement.

4 **10. RESERVATION OF AUTHORITY**

5 10.1 Other than "Covered Matters" as defined in Paragraph 5.1 above, nothing herein is
6 intended, nor shall it be construed, to preclude DTSC, or any state, county, or local agency,
7 department, board, or entity from exercising its authority under any law, statute, or regulation.

8 10.2 DTSC reserves its authority under the HWCL to: (1) enforce the Final Judgment; (2)
9 use all violations alleged in DTSC's First Amended Complaint, whether or not admitted by
10 Phibro-Tech pursuant to Paragraph 11 herein, and Phibro-Tech's admissions to those violations to
11 seek enhanced penalties in any subsequent administrative or civil action to show a pattern or
12 course of conduct or a history of non-compliance; (3) use all violations alleged in DTSC's First
13 Amended Complaint, whether or not admitted by Phibro-Tech pursuant to Paragraph 11, below,
14 and Phibro-Tech's admissions to those violations in any future DTSC permit decision or
15 proceeding. Any such future permit decision or proceeding shall be based upon the requirements
16 of the HWCL and Title 22, that are in effect on the date of the permit decision or proceeding. If
17 DTSC seeks to use any of the violations alleged in the First Amended Complaint, as provided in
18 this Paragraph, Phibro-Tech covenants not to assert any defenses based on the passage of time,
19 including, but not limited to, laches, estoppel, and statute of limitations.

20 10.3 Nothing in the foregoing is intended to or shall be construed as limiting or precluding
21 DTSC from: (1) pursuing all of its remedies to enforce this Final Judgment; (2) initiating an
22 enforcement action against Phibro-Tech seeking injunctive relief or penalties for the period of
23 time Phibro-Tech violated the terms of this Final Judgment; or (3) initiating an enforcement
24 action against Phibro-Tech for any violations of the HWCL or Title 22 except as provided by
25 Paragraph 5 herein.

26 10.4 A decision by DTSC not to enforce any provision of this Final Judgment shall neither
27 be deemed a waiver of the provision, nor in any way affect the validity of this Final Judgment or
28 DTSC's enforcement authority. A decision by DTSC not to enforce any provision of this Final

Judgment shall not preclude DTSC from exercising its statutory authority to enforce the same or other provisions.

10.5 Phibro-Tech covenants not to pursue any civil or administrative claims against DTSC or against any governmental unit of the State of California, any counties or municipalities in the State of California, or against their officers, employees, representatives, agents, or attorneys for actions taken against Phibro-Tech arising out of or related to Paragraph 5, Covered Matters.

11. ADMISSIONS

Phibro-Tech admits all violations set forth in the Causes of Action identified in the First Amended Complaint, except for Causes of Action 5, 11, 16 and 17.

12. NO LIABILITY OF DTSC

DTSC shall not be liable for any injury or damage to persons or property resulting from acts or omissions by Phibro-Tech or its agents, servants, employees, representatives, or other persons acting in concert or participating with Phibro-Tech, in carrying out activities pursuant to this Final Judgment in this matter, nor shall DTSC be held as a party to or guarantor of any contract entered into by Phibro-Tech or its agents, servants, employees, representatives, or other persons acting in concert or participating with Phibro-Tech, in carrying out the requirements of this Final Judgment in this matter.

13. FUTURE REGULATORY CHANGES

Nothing in this Final Judgment shall excuse Phibro-Tech from meeting any more stringent requirements that may be imposed by applicable law or by changes in the applicable law.

14. FUTURE PERMIT CHANGES

Nothing in this Final Judgment entered by the Court in this matter shall preclude DTSC from requiring more stringent requirements in Phibro-Tech's PERMIT for the FACILITY.

15. INTERPRETATION OF THIS FINAL JUDGMENT

This Final Judgment shall be deemed to have been drafted equally by the Parties hereto. The Parties agree that the rule of construction holding that ambiguity is construed against the drafting Party shall not apply to the interpretation of this Final Judgment.

1 **16. CONTINUING JURISDICTION**

2 The Parties agree that this Court has continuing jurisdiction to interpret and enforce the
3 provisions of this Final Judgment and to address any other matters arising out of or regarding this
4 Final Judgment.

5 **17. AMENDMENTS TO THIS FINAL JUDGMENT**

6 This Final Judgment may be amended or supplemented only pursuant to a written
7 agreement signed by the Parties, followed by written approval by the Court, or by order of the
8 Court following the filing of a duly noticed motion.

9 **18. COSTS AND ATTORNEYS' FEES**

10 Each Party shall bear its own costs and attorneys' fees.

11 **19. ENTRY OF THE FINAL JUDGMENT**

12 The Clerk of the Court is ordered to enter forthwith this Final Judgment, and to provide
13 promptly to the Parties, notice of entry of the Final Judgment.

14
15 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

16
17
18 Dated: 1/8/2019

Original Signed

MICHELLE WILLIAMS COURT
HONORABLE DANIEL J. BUCKLEY
Judge of the Superior Court

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Phibro-Tech, Inc.**

Case No.: **BC655177**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On November 26, 2018, I served the **[PROPOSED] FINAL JUDGMENT ON CONSENT AND PERMANENT INJUNCTION**, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

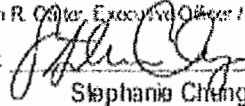
Andrew F. Brimmer
Zachary R. Walton
Elizabeth L. Bridges
SSL Law Firm LLP
575 Market Street, Suite 2700
San Francisco, CA 94105
Attorneys for Defendant, Phibro-Tech, Inc.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 26, 2018, at Los Angeles, California.

Beatriz Davalos

Declarant

Signature

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp <div style="text-align: center;"> FILED Superior Court of California County of Los Angeles 01/08/2019 Sherri R. Carter, Executive Officer / Clerk of Court By:  Deputy Stephanie Chung </div>
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		
PLAINTIFF(S): People of the State California, ex rel.		
DEFENDANT(S): Phibro-Tech, Inc.		
NOTICE OF ENTRY OF: <input checked="" type="checkbox"/> JUDGMENT <input type="checkbox"/> DISMISSAL <input type="checkbox"/> OTHER ORDER <input type="checkbox"/> AMENDED		CASE NUMBER: BC655177


TO THE PARTIES AND TO THEIR ATTORNEYS OF RECORD, you are hereby given notice of entry of:

☒ Judgment in the above-entitled matter, entered on 01/08/2019.
☐ Order of Dismissal in the above-entitled matter, filed on _____.
☐ Order _____ filed on _____.

Sherri R. Carter, Executive Officer / Clerk of Court

Dated: 01/08/2019

By Stephanie Chung
 Deputy Clerk

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		FILED Superior Court of California County of Los Angeles 01/08/2019
PLAINTIFF/PETITIONER: People of the State California, ex rel.		Sherri R. Carter, Executive Officer / Clerk of Court By:  Deputy Stephanie Chung
DEFENDANT/RESPONDENT: Phibro-Tech, Inc.		
CERTIFICATE OF MAILING		CASE NUMBER: BC655177

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of Judgment / Dismissal / Other Order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

SSL Law Firm LLP
575 Market St., Ste. 2700
San Francisco, CA 94105-

Sarah E. Morrison
Deputy Attorney General
300 South Spring Street, sTE. 1702
Los Angeles,, CA 90013-

Dated: 01/8/2019

Sherri R. Carter, Executive Officer / Clerk of Court

By: Stephanie Chung
Deputy Clerk

CERTIFICATE OF MAILING